

BILL ANALYSIS

C.S.H.B. 3415
By: Marchant
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, Texas law lists specific classes of goods and services relating to the filing of an application for registration of a trademark or service mark with the Secretary of State. The United States Patent and Trademark Office (USPTO) periodically restructures classifications; consequently, specific enumeration of goods and services in the state code are obsolete. The purposes of C.S.H.B. 3415 are to require the Secretary of State to adopt rules to establish a classification of goods and services which conforms to the USPTO's classification, to the extent practicable, and to authorize electronic filing and facsimile receipt of instruments required to be filed with the Secretary of State.

RULEMAKING AUTHORITY

Rulemaking is expressly granted to the Secretary of State in SECTION 2 (Section 16.09 (a), Business & Commerce Code) of this bill.

ANALYSIS

C.S.H.B. 3415 amends Section 16.09 (a) and (b) Business & Commerce Code to require the Secretary of State to adopt rules establishing a classification of goods and services to administer Chapter 16 (Trademarks). The bill provides that the classification established may not limit or expand an applicant's or registrant's rights. The bill provides that, to the extent practicable, the classification of goods and services shall conform to the classification adopted by the United States Patent and Trademark Office. The bill deletes references to specific classes of goods that are no longer necessary since the secretary of state is given rulemaking authority to establish a classification of goods and services.

The bill amends Subchapter B, Chapter 16, Business & Commerce Code, by adding Section 16.191 to provide procedures for the secretary of state to reflect a registrant's change of address.

The bill amends Section 16.20, Business & Commerce Code, to provide that if ownership of a registered mark is transferred, or a registrant's name is changed during the unexpired term of a registration, the secretary of state has the discretion to issue a new certificate of registration for the remainder of the unexpired term of the mark's registration in the name of the transferee or in the new name of the registrant.

The bill amends Subchapter B, Chapter 16, Business & Commerce Code, by adding Section 16.22 to authorize applications for certain registrations to be submitted in an electronic format approved by the secretary of state. The bill also authorizes the secretary of state to issue electronic acknowledgements or certificates rather than paper forms, and provides that civil or criminal penalties applicable to the filing of a document apply to electronic filings.

EFFECTIVE DATE

September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

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The original bill was not drafted by the Legislative Council. C.S.H.B. 3415 is a Legislative Council draft which conforms to the standard drafting format.

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